

**Notice of Allowability**

Application No.

10/054,082

Applicant(s)

TERRY ANN OLDFIELD

Examiner

Blessing M. Fubara

Art Unit

1615

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 03/24/04.
2. ☒ The allowed claim(s) is/are 6-8 (claims are renumbered).
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 03/24/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 06/09/04
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

Art Unit: 1615

### **DETAILED ACTION**

Examiner acknowledges receipt of amendment, remarks and request for extension of time, all filed 03/24/04. Claims 6-8 are pending.

#### ***Information Disclosure Statement***

Examiner thanks applicants for bringing to the attention of the examiner the existence of co-pending application number 10/114,353 and for including the office action rendered in said application. This record is placed in the file.

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Bernard J. Graves, Jr. on 06/09/04.

The application has been amended as follows:

In claim 6, item (iv), beginning line 3, replace "ester, i.e., carbonyloxy linkages" with ---carbonyloxy ester linkages---

In claim 6, line 9, in the parenthesis, replace "1" with ---I---

In claim 6, line 16, in the parenthesis, replace "1" with ---I---

*Allowable Subject Matter*Regarding co-pending application, serial number 10/114,353

Examiner thanks applicants for bringing the co-pending application, 10/114,353 and the attendant office action to examiner's attention. Examiner has reviewed the claims and the prior art cited in office action in said co-pending application. The claims of 10/114,353 are directed to compositions that comprise 1-40 wt% (based on the total weight of the components) of un-neutralized or partially neutralized carboxyalkyl cellulose ester and 60-99% liquid vehicle based on the total weight of the composition, where the liquid vehicle comprises 0-80 wt% water, 2-25% wt% organic solvent that evaporates slower than water and 0-88 wt% organic solvent that evaporates faster than water and where the carboxyalkyl cellulose have an inherent viscosity of about 0.2 to 0.7 dL/g and a degree of substitution per anhydroglucose unit of carboxy (C<sub>1</sub>-C<sub>3</sub>-alkyl) of greater than 0.2 to 0.27 and a degree of substitution per anhydroglucose unit of C<sub>2</sub>-C<sub>4</sub> alkanoate ester residue of about 1.5 to 2.7. These intended uses of the compositions are as cosmetic coating composition, skin, finger or toenail coating composition. The claims are further directed to method of preparing decorative coatings for the finger- or toenail. The copending application differs from the examined application in that the copending composition does not include sulfonate-containing linear polyester.

Examiner has also reviewed the Allen et al. (US 5,792,856) reference that was cited in the office action for the 10/114,353. The Allen reference discloses a coating composition that comprises 0.1-50% wt% partially neutralized carboxyalkyl cellulose ester having an inherent viscosity of 0.20 to 0.70 dL/g, 0.1 to 50 wt% polyester or polyesteramide resin and about 5-70

Art Unit: 1615

wt% organic solvent or solvent mixture (abstract; column 4, lines 7-36; and column 8, line 8 to column 9, line 40). The polyester in the Allen reference does not contain a sulfonate group.

2. The following is a statement of reasons for the indication of allowable subject matter:

Posey-Dowty et al. (US 5,994,530) discloses a coating composition comprising (a) about 0.1 to about 50 wt% carboxyalkylcellulose ester having an inherent viscosity of about 0.20 to 1.70 dL/g, degree of substitution per anhydroglucose unit of carboxy (C<sub>1</sub>-C<sub>3</sub>-alkyl) of greater than 0.2 to 0.75 and a degree of substitution per anhydroglucose unit of C<sub>2</sub>-C<sub>4</sub> ester of about 1.5 to 2.70, (b) about 0.1 to 50 wt%, of polyester or polyesteramide resin, based on the total weight of the composition, and (c) about 5-70 wt% of an organic solvent or solvent mixture based on the total weight of the composition (abstract and column 10, lines 45-63). The polyester in the coating composition of the Posey-Dowty reference does not contain a sulfonate group.

O'Neill et al. (US 4,300,580) discloses a composition that is intended for grooming hair, the composition comprises sulfonate-containing linear water-disipatable polyester (abstract, column 1, line 41 to column 4 line 17 and examples 1-5) having an inherent viscosity of at least 0.15 (column 4, line 19 and examples 1 and 2). The polyester is blended with substances such as starch (modified or natural), high molecular weight amine, protein, polymer containing and amide group, poly(vinyl alcohol), partially hydrolyzed poly(vinyl acetate), an addition polymer containing a carboxyl group, poly(alkylene ether) and carboxymethyl cellulose (column 4, lines 43-55). The composition of O'Neill does not contain a partially or totally neutralized carboxymethyl cellulose ester and the carboxymethyl cellulose that can be contained in the composition is neither neutralized nor esterified. There is also no suggestion in O'Neill to either neutralize or esterify the carboxymethyl cellulose. The sulfonate-containing linear polyester of

Art Unit: 1615

O'Neil contains at least 20 mole percent of poly(ethylene glycol) diol while the sulfonate-containing linear polyester of instant claim 6 requires at least 15 mole percent or from 0.1 to less than 15 mole percent of diol.

The references of Allen and Posey-Dowty disclose similar compositions but each of the compositions contain polyester that are not sulfonated and in the O'Neill reference the carboxymethyl cellulose is neither neutralized nor esterified. The presence of the linear polyester containing the sulfonate ester enhances the water dispersibility of the composition and because it is water dispersible, lower levels of volatile organic solvents can be used. The presence of the sulfonate-containing linear polyester enables the carboxymethyl cellulose ester composition to provide a non-tacky film upon drying on hair, and the composition has lower pH than traditional acrylic resins at similar neutralization. The composition containing the sulfonate-containing linear polymer can be formulated and used at pH ranges where the carboxymethyl cellulose ester is sensitive. The mole percent amount of poly(ethylene glycol) diol present in the polyester of the instant claims is less than that of the O'Neil reference, which does not have carboxyalkyl cellulose ester. The combination of the sulfonate-containing linear polyester and typical amounts of carboxyalkyl cellulose ester in the instant composition results in a composition that binds or coats hair that is not difficult to remove from the hair.

Thus, the pending claims are allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 1615

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blessing M. Fubara whose telephone number is (571) 242-0594. The examiner can normally be reached on 7 a.m. to 3:30 p.m. (Monday to Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Blessing Fubara  
Patent Examiner  
Tech. Center 1600